



## CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

September 6, 2011

### **S. 1458** **Intelligence Authorization Act for Fiscal Year 2012**

*As reported by the Senate Select Committee on Intelligence  
on August 1, 2011*

#### **SUMMARY**

S. 1458 would authorize appropriations for fiscal year 2012 for intelligence activities of the U.S. government, for the Intelligence Community Management Account (ICMA), and for the Central Intelligence Agency Retirement and Disability System (CIARDS).

Since CBO does not provide estimates for classified programs, this estimate addresses only the unclassified portions of the bill. In addition, CBO cannot provide estimates for certain provisions in the unclassified portion of the bill because they concern classified intelligence programs. On that limited basis, and assuming appropriation of the authorized amounts, CBO estimates that implementing S. 1458 would cost \$580 million over the 2012-2016 period.

Pay-as-you-go procedures apply because enacting the legislation would affect direct spending; however, CBO estimates that those effects would be insignificant. Enacting S. 1458 would not affect revenues.

Section 4 of the Unfunded Mandates Reform Act (UMRA) excludes from the application of that act any legislative provisions that are necessary for national security. CBO has determined that section 309, which would limit the disclosure of information relating to covered procurement actions if such information risks national security, would fall under that exclusion; therefore, CBO has not reviewed that provision for intergovernmental or private-sector mandates.

The bill would impose both private-sector and intergovernmental mandates by extending an existing mandate that would limit civil actions and require providers of communication services to provide information. CBO cannot determine whether the costs of those mandates would exceed the annual threshold established by UMRA for private-sector mandates (\$142 million in 2011, adjusted annually for inflation). The bill also would extend an existing preemption on state and local governments regarding legal rights of action. CBO estimates that the cost to public entities of all the mandates in the bill would be

small and well below the annual threshold established in UMRA (\$71 million in 2011, adjusted annually for inflation).

## ESTIMATED COST TO THE FEDERAL GOVERNMENT

The estimated budgetary impact of the unclassified portions of S. 1458 is shown in the following table. The costs of this legislation fall within budget function 050 (national defense).

	By Fiscal Year, in Millions of Dollars					
	2012	2013	2014	2015	2016	2012-2016
<b>CHANGES IN SPENDING SUBJECT TO APPROPRIATION</b>						
Authorization Level	585	0	0	0	0	585
Estimated Outlays	380	135	47	12	6	580

## BASIS OF ESTIMATE

### Spending Subject to Appropriation

For this estimate, CBO assumes that the legislation will be enacted near the end of 2011.

Section 103 would authorize the appropriation of \$585 million for the ICMA for fiscal year 2012. The ICMA provides the principal source of funding for the Office of the Director of National Intelligence and resources for coordinating programs, overseeing budgets, and managing the intelligence agencies. CBO estimates that implementing this provision would cost \$580 million over the 2012-2016 period, assuming appropriation of specified amount.

### Direct Spending

Section 201 would authorize the appropriation of \$514 million to the Central Intelligence Agency Retirement and Disability System. CIARDS is a retirement and disability system for certain employees of the Central Intelligence Agency (CIA), and the appropriation covers various unfunded liabilities of the system. The appropriation to CIARDS is considered mandatory, and the authorization under this bill would be the same as the

amount assumed in the CBO baseline. Thus, this estimate does not ascribe any additional cost to that provision.

Section 402 would amend the CIA's authority to accept gifts. The provision would permit the Director of the CIA to accept gifts on behalf of current and former employees who are injured in the line of duty, dependents of those individuals, and surviving family members of employees who are killed in the line of duty.

Because the Director also has the authority to invest gifts of cash or the proceeds from gifts of securities or property in U.S. government securities, and to spend the interest earned on those securities, this provision could result in additional interest being available for spending. Although the payment of interest from the U.S. Treasury to the CIA's gift fund would be an intergovernmental transfer, the outlays that would result from that transfer would constitute direct spending. However, CBO anticipates that the additional amounts invested by the CIA, and thus any additional interest, would be minimal.

## **PAY-AS-YOU-GO CONSIDERATIONS**

The Statutory Pay-As-You-Go Act of 2010 establishes budget-reporting and enforcement procedures for legislation affecting direct spending or revenues. Enacting S. 1458 would result in additional receipts and spending, but CBO estimates that the net effect on direct spending would be insignificant. Enacting the bill would not affect revenues.

## **INTERGOVERNMENTAL AND PRIVATE-SECTOR IMPACT**

### **Exclusions**

Section 4 of the Unfunded Mandates Reform Act (UMRA) excludes from the application of that act any legislative provisions that are necessary for national security. CBO has determined that section 309, which would limit the disclosure of information relating to covered procurement actions if such information risks national security, would fall under that exclusion; therefore, CBO has not reviewed that provision for intergovernmental or private-sector mandates.

### **Impact on Public and Private Entities**

The bill would extend intergovernmental and private-sector mandates by continuing the authority of federal law enforcement to compel providers of communication services to release information about consumers and users. In addition, the bill would limit civil

actions against providers of electronic communication services when they comply with a federal directive to provide information, modes of communication, or assistance.

Based on information from the Office of the Director of National Intelligence and the U.S. Department of Justice, the number of requests to public entities for this type of information is small, and the costs to those entities are negligible. Therefore, CBO estimates that the costs of this mandate would fall well below the intergovernmental threshold established in UMRA (\$71 million in 2011, adjusted annually for inflation). In addition, the law requires that any costs to public entities would have to be fully compensated by the federal government at the prevailing rate for those services.

CBO has no information about the prevalence of electronic surveillance and the potential cost of compliance for private-sector entities that assist the government with electronic surveillance. Furthermore, CBO has limited information about the entities that would be affected by the constraints on civil actions or the forgone net value of awards and settlements in such actions. Therefore, CBO has no basis for estimating the cost of those mandates or whether the costs would exceed the annual threshold established by UMRA for private-sector mandates (\$142 million in 2011, adjusted annually for inflation).

### **Impact on Public Entities Only**

The bill also would impose an intergovernmental mandate on state or local governments by extending an existing preemption on legal rights of action. By releasing individuals from liability who provide information, modes of communication, or assistance required by the federal government, the bill would preempt some state and local liability laws. Because the preemption would impose no duty on state or local governments that would result in additional spending or the direct loss of revenues, CBO estimates that the cost of the mandate would fall well below the threshold established by UMRA for intergovernmental mandates (\$71 million, adjusted annually for inflation).

### **PREVIOUS CBO ESTIMATE**

On June 22, 2011, CBO transmitted a cost estimate for H.R. 1892, the Intelligence Authorization Act for Fiscal Year 2012, as ordered reported by the House Permanent Select Committee on Intelligence on May 26, 2011. The difference in the estimated costs reflects the different amounts that would be authorized for funding for the ICMA. H.R. 1892 would authorize \$590 million, while S. 1458 would authorize \$585 million.

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